

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7385**

**BILL NUMBER: SB 418**

**DATE PREPARED:** Apr 30, 2001

**BILL AMENDED:** Apr 29, 2001

**SUBJECT:** Retainage on Highway Projects.

**FISCAL ANALYST:** James Sperlik

**PHONE NUMBER:** 232-9866

**FUNDS AFFECTED:**     **GENERAL**  
                          **X DEDICATED**  
                          **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (CCR Amended) This bill eliminates the requirement that a contractor must submit the written consent of the surety of the contractor's bond before the contractor may be permitted to draw any part of the retained percentage of a contract withheld by the Indiana Department of Transportation (INDOT). The bill repeals the requirement that, until there has been substantial completion of an Indiana Department of Transportation contract, payment on the contract may not exceed 97% of the estimated cost of the completed work. The bill also repeals additional provisions: (1) requiring that the retainage, upon the contractor's request, be deposited in an interest bearing escrow account with the Treasurer of State or the Treasurer of State's designee acting as escrow agent; and (2) permitting the Treasurer of State to charge a fee for these services.

**Effective Date:** July 1, 2001.

**Explanation of State Expenditures:** (Revised) The INDOT reports that this bill will have no fiscal impact on them.

*Background:* INDOT reports that under Indiana Code, the INDOT is required to withhold a 3% retainage on all contracts. Additionally, all contractors are required to post a performance bond with the INDOT on all contracts. Revised regulations also require the contractors to pay their subcontractors within ten days after the work is completed. In addition, the contractors report that the revised regulations will have a huge impact on their operations and have asked the INDOT to eliminate the retainage provision.

**Explanation of State Revenues:** (Revised) The State Treasurer's Annual Report for FY 2000 reveals that there was no escrow account established for the investment of the INDOT retainage amount. The report also reveals that there were no charges for the services of the State Treasurer for the investment of the INDOT retainage.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Transportation; State Treasurer.

**Local Agencies Affected:**

**Information Sources:** Firooz Zandi, Acting Deputy Chief Engineer of the INDOT, 232-5518; State Treasurer's Annual Report for FY 2000; Kathy Noland, Chief of Legislative and Public Affairs at the INDOT, 232-0694.